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HUMAN RIGHTS COMMITTEE

Forty-sixth session

SUMMARY RECORD OF THE 1201st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 4 November 1992, at 10 a.m.

Chairman: Mr. POCAR

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GE.92-18291 (E)

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Report of Croatia

1. At the invitation of the Chairman, Mr. Šimac, Mr. Vukas and Mr. Krapac (Croatia) took places at the Committee table.

2. The CHAIRMAN recalled that the Committee had called for a special report from each of the States successors to the territory of the former Yugoslavia on events that might affect human rights protected under the Covenant, based on the consideration that all the peoples within the territory were still entitled to its guarantees. The Government of Croatia had complied with that request within the established time-limit and its report on measures taken to prevent criminal acts perpetrated in violation of human rights and freedoms in the Republic of Croatia was now before the Committee, together with some other material which the Government had provided. He welcomed the delegation, whose presence was evidence of the Government's desire to comply with its obligations under the Covenant.

3. Mr. ŠIMAC (Croatia) said it was a great honour for his delegation to appear before the Committee and describe Croatia's position, attitude and efforts directed to the protection of human rights under the Covenant. The development and present status of civil and political rights in Croatia should be considered in the light of the events that had occurred following the first free elections in the spring of 1990 and Croatia's declaration of independence in June 1991, when there had been riots and rebellion by part of the Serbian minority in Croatia with the incitement and strong support of the Belgrade communist regime, later known as the socialist regime, and the so-called Yugoslav People's Army, culminating in open military aggression against Croatia aimed at occupation, ethnic cleansing and annexation of its territory. The aggression had left 20,000 people dead and 80,000 wounded. A quarter of the Croatian territory, which since March 1992 had been known as a United Nations-protected area, was still under Serbian occupation. Almost half of the Croatian economy had been destroyed and many churches, cemeteries, schools, hospitals and cultural and historical monuments severely damaged or completely ruined. Croatia was now host to some 300,000 displaced persons who had had to leave their homes in order to save their lives, and to more than 450,000 refugees from Bosnia and Herzegovina.

4. The distinction between the aggressor and the victim must form a basis for any consideration of the human rights situation in Croatia. As one of the successors of the former Yugoslavia, Croatia had, in 1992, declared its accession to the 1949 Geneva Conventions, and in October 1992, had notified the Secretary-General of the United Nations of its desire to be considered a party to a number of international conventions, including the International Covenants on Human Rights. Its declaration under article 41 of the Covenant, together with its accession to the two Optional Protocols, was imminent. His Government paid great attention to questions of human rights, including minority rights. The International Covenants had been taken as a basis for chapter 3 of its new Constitution of December 1990. Copies of that chapter

had been circulated to members of the Committee. Article 14 of the Constitution provided that all citizens enjoyed human rights regardless of race, colour, language, religion, political opinion or national or social origin. Article 21 dealt with the right to life and abolition of the death penalty. Articles 22 and 24, dealing with liberty and security of person, stated that no one could be arrested or detained without a written court order based on law. Article 25 stipulated that any arrested person must be treated humanely and with respect for his dignity; article 29 (3) that evidence illegally obtained could not be admitted in court proceedings; article 35 that all persons must be guaranteed respect for and legal protection of personal and family life, dignity, reputation and honour; and article 39 that any incitement to war or resort to violence or national, racial or religious hatred or any form of intolerance was prohibited and punishable. Article 236 of the Penal Code similarly dealt with incitement to national, racial or religious intolerance or hatred as a criminal act. Article 93 of the Constitution provided for the appointment of an ombudsman responsible for protecting the constitutional and legal rights of all citizens in relation to the Government administration and parties vested with public powers.

5. Since alleged violations of minority rights had served as a pretext for aggression against Croatia, his country was greatly concerned with minority issues. In its preamble, the Constitution defined the Republic of Croatia as a national State of Croatian people and a State of members of minorities who were its citizens, while article 15 provided that members of all national minorities must have equal rights, freedom to express their nationality and use their language and script, and cultural autonomy. Ethnic problems had proved to be a crucial issue in the dissolution of the former Yugoslavia. The document entitled "Treaty provisions for the Commission", adopted in October 1991 in the framework of The Hague Conference on the Former Yugoslavia, contained a chapter on human rights, including the rights of national and ethnic groups. It had been intended that all the republics of the former Yugoslavia should enact and implement those provisions, but only Croatia had done so: in December 1991, it had adopted a Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities, copies of which had been circulated to members of the Committee. The Law guaranteed all human rights and fundamental freedoms to members of minorities, together with additional rights to be enjoyed by them in accordance with all the relevant United Nations and European instruments. Article 1 of that Law stated that it was based on the principles of the Constitution of the Republic of Croatia and the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Final Act of the Conference on Security and Cooperation in Europe (CSCE), the Charter of Paris for a New Europe and other CSCE human rights documents, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Rights of the Child.

6. In compliance with The Hague instrument, the Constitutional Law contained detailed provisions granting special autonomous status to national and ethnic communities in those districts of the Republic of Croatia where their members represented over 50 per cent of the population. That special status consisted

of broad self-government in legislative, administrative and judicial matters. Article 58 of the Constitution foresaw the conclusion of an international agreement on the establishment of an international supervisory mechanism. Other legal provisions guaranteeing national minority rights in the Republic included the law on the social care of children under school age, laws on elementary and high schools and on education and instruction in minority languages, and the law on election to the Croatian Parliament, which provided that a national minority comprising more than 8 per cent of the total population of the Republic must be proportionally represented in parliamentary, governmental and judicial bodies and that all national minorities with less than 8 per cent of the total population must together have five representatives in the Croatian Parliament.

7. There had been no organized policy of ethnic cleansing in the Croatian territory under the control of the Croatian authorities, who had always been decisively and uncompromisingly opposed to such a policy. As had been stated in various international reports of inquiry, it was a policy that had been, and was still being, pursued and practised against Croatians and other non-Serbian populations in the territory under occupation and not controlled by the Croatian authorities. The fact that it had received such vast numbers of refugees and displaced persons was yet another proof of Croatia's opposition to the inhuman policy of ethnic cleansing practised by the aggressor. Although there had been individual cases of arbitrary arrest and killing during the early stages of spontaneous self-defence against the aggressor, the Croatian authorities had applied the rule of law throughout the territory under their control and were prosecuting the perpetrators of such criminal acts. Since the majority of perpetrators had escaped to the occupied territory, his Government had appealed to the United Nations Protective Force (UNPROFOR) for help in bringing them to justice.

8. It could be seen from his Government's report that there were no detention camps in the territory controlled by the Croatian authorities. Even during the military aggression, the treatment of prisoners of war belonging to the so-called Yugoslav People's Army or to Serbian or Montenegrin paramilitary groups had been regulated by a special decree of the President of the Republic providing for the application of the Geneva Convention of 1949 relative to the Treatment of Prisoners of War. In the territory occupied by the aggressor and under the protection of UNPROFOR, there were still detention camps in which killings, the worst methods of torture and other inhuman treatment were practised. The camps were mentioned by name in the report.

9. With respect to measures taken to prevent arbitrary execution, torture or other inhuman treatment of prisoners, including prisoners of war, the provisions of article 25 of the Constitution, together with the relevant provisions of the Penal Code to which he had already referred, should act as a deterrent.

10. As to the measures taken to combat advocacy of national, racial or religious hatred, he had already referred to article 39 of the Constitution and the relevant provisions of the Penal Code. His Government was a strong advocate of national and religious tolerance and favoured the introduction of preventive measures to forestall any intolerance. It had established an Office for Inter-Ethnic Relations and there was also a parliamentary Committee

for Human Rights, including minority rights, to monitor the application of the law in particular cases and to make proposals for any improvements that might be needed.

11. At the outset of the aggression against Croatia, the Ministry of the Interior had assessed the degree of danger that existed in order to protect possible targets. Police stations in each district had been instructed to take the necessary precautions to prevent possible attacks in retaliation for the killings, bombings and other crimes frequently committed by people of Serbian nationality living in the area.

12. That policy of the Croatian Government was an expression of its awareness of the importance of human rights, its willingness to promote them and achieve the highest international standards, and its desire to become an equal member of the international community meeting all its human rights requirements. His delegation would be grateful for the Committee's comments and advice as to how the implementation of the Covenant could be improved in the municipal law and practice of the Republic of Croatia.

13. Mrs. HIGGINS welcomed the delegation and expressed appreciation to Mr. Šimac, Assistant Minister for Foreign Affairs, for his informative and helpful opening statement. The Committee had been glad to be assured of the succession of the Republic of Croatia to the human rights obligations and responsibilities provided for in the Covenant, including its relationship with the Committee. It was also interesting to learn of its intention to accede to the Optional Protocols. With respect to the request for recommendations to assist the Republic of Croatia in its compliance with the Covenant, the Committee would make such recommendations in general terms following its consideration of the normal initial report. The current meeting was taking place in order to consider a special report on designated questions, as provided for under article 40 of the Covenant.

14. The Committee could not accept the claim that the distinction between the aggressor and the victim must be a basis for any consideration of the human rights situation in Croatia. All the human rights instruments laid obligations on the parties to them, and even the Geneva Conventions did not exonerate those who regarded themselves as victims of aggression from their own responsibilities under the relevant instrument. While the Committee well understood the factual background, it would regard each of the States concerned as responsible for their obligations under the Covenant.

15. She had been interested to read the Croatian Government's report on various types of action being taken to prevent human rights violations. In paragraph 26 of the report prepared by the Special Rapporteur appointed by the Commission on Human Rights (E/CN.4/1992/S-1/9), reference was made to maltreatment of ethnic Serbs which had caused the flight of many of them from the territory of Croatia, while paragraph 29 referred to the detention of large numbers of ethnic Serbs on charges of rebellion, often with no tangible evidence of real links to the unrecognized Government of "Krajina", and went on to say that that practice amounted to detention of the civilian population on the basis of their ethnic origin. She would welcome the Croatian delegation's comments on those observations.

16. She also inquired what measures were being adopted to ensure that prisoners were not being taken in order to be exchanged for other prisoners, since any such action would be contrary to article 9 of the Covenant. She further asked why the CSCE mission to inspect places of detention in Bosnia and Herzegovina had reported that Croatia alone had failed to supply it with lists of places of detention, although such lists had been provided to it by the Mayor of Banja Luka, who had claimed that large numbers of detainees were being held in Bosnia and Herzegovina by the Serbian authorities, and many others were alleged to have been transported to Croatia. She would welcome the delegation's comments on those allegations, together with information on any specific measures taken to ensure the proper treatment of detainees.

17. Mr. HERNDL welcomed the Croatian delegation and expressed appreciation for the report and oral explanations.

18. The current discussion was restricted to the measures taken by the Government concerned to prevent and combat specific types of violations of the rights enshrined in the Covenant. He commended the Government for having set forth in its Constitution the various rights to which the individual was entitled and for having taken account of the Covenant in drafting those provisions. He noted with satisfaction Croatia's declaration of succession to a number of human rights instruments and its indication that it might become a party to the two Optional Protocols within the foreseeable future. The Government's report on measures taken to prevent criminal acts perpetrated in violation of human rights and freedoms in the Republic of Croatia responded to the Committee's concern, albeit it in a rather cursory manner. While noting the assertion that no ethnic cleansing had been practised in the territory of Croatia controlled by the Croatian authorities, he said it was nevertheless a fact that certain people of non-Croatian ethnic origin had fled or were in prison, as borne out in the paragraphs of the report of the Special Rapporteur (E/CN.4/1992/S-1/9) to which Mrs. Higgins had referred. It was stated in the Government's report that the appropriate authorities took all measures within their competence designed to prevent conduct by certain individuals that might lead to forced departures or prevention of return of any section of the population. What were the specific measures taken?

19. With respect to incitement to racial intolerance, intolerance in general and the application of article 20 of the Covenant, he had noted the statement that the general policy of Croatia called for the introduction of preventive conditions designed to forestall any cases of national, racial, religious or other kinds of hatred. How did the Government intend to implement that general policy?

20. He associated himself with Mrs. Higgins' comments to the effect that armed conflict and aggression waged against the Republic of Croatia would not exonerate it from its international obligations under the Covenant, including prevention of incitement to hatred and intolerance. He was further concerned about the statement in paragraph 27 of the Special Rapporteur's report that his mission had received copies of published lists of citizens of Croatia indicating their ethnic origin; that those lists were widely distributed and even available for sale to the public; and that their circulation facilitated discrimination and harassment throughout the society. Would not the

Government wish to prevent the circulation of such lists, which in itself would be an incitement to deal with persons of differing ethnic origin in a way that was not permitted under the Covenant?

21. Mr. SADI welcomed the Croatian delegation and thanked it for providing constructive information at short notice. The news that Croatia had acceded to the Covenant was encouraging.

22. As Mrs. Higgins had pointed out, no signatories of the Covenant, even if they were being subjected to aggression, were absolved of responsibility for implementing its provisions. Although atrocities might well be occurring in the portion of the country that was not under Croatian control, Croatia was accountable for what happened in the areas that it held, where human rights violations were reportedly being committed against individuals and in detention camps.

23. The report submitted by the Croatian delegation clearly stated that no policy of ethnic cleansing was practised. He would like to know, however, what practical measures had been adopted to promote tolerance among the various peoples residing in the Republic. Were there any educational programmes, policy campaigns or efforts to disseminate information that would promote ethnic tolerance?

24. It would be interesting to know what steps the Republic of Croatia believed the international community could take to help put an end to the barbaric atrocities committed against Croatians outside the country's territory and to ensure that the perpetrators of such atrocities were punished.

25. In section II (b) of the Government's report, it was indicated that 27 cases of the murder of Croatian citizens had been "clarified"; he would like to know what that term signified.

26. In conclusion, he said he was convinced that the Republic of Croatia was committed to the cause of human rights. There might be isolated problems, but with time and effort they could be solved.

27. Miss CHANET welcomed the delegation of the Republic of Croatia and thanked it for its efforts to answer the Committee's questions despite the upheaval and destruction in the country. She had noted with satisfaction that the Government intended to incorporate the Covenant into domestic legislation, and she was certain the dialogue with the Committee would be useful in clarifying Croatia's position on the Covenant.

28. It was stated in the report submitted by Croatia that there was no policy of ethnic cleansing there. That was not the view taken in the report prepared by CSCE, however, which indicated that in the territory controlled by Croatia, the Serbian population was the target of human rights violations. The CSCE report cited cases of housing belonging to Serbs being destroyed or given to refugees, of shops belonging to Serbs being attacked, of Serbs being dismissed from Government service and of "wanted" notices for Serbian intellectuals being published in the Croatian press. She asked whether those measures were not in themselves a form of ethnic cleansing.

29. The report submitted by Croatia stated that charges had been brought against 49 individuals for kidnapping and against 33 persons for arbitrary arrests. The CSCE report and the information provided by non-governmental organizations, however, indicated that the follow-up being given to the charges was by no means energetic. She requested information from the delegation on how the charges were being pursued and what punishment had been decided on for individuals guilty of arbitrary arrest or summary execution.

30. Noting the statement in the report that there were no detention camps in the territory controlled by Croatia, she requested clarification as to whether that meant that there were none in Bosnia and Herzegovina.

31. Mr. PRADO VALLEJO said it was encouraging to see that the Government of Croatia had acceded to the Covenant. The Covenant established a number of responsibilities, primary among which was the investigation of any violations of human rights and the punishment of the guilty parties. The report submitted by Croatia said nothing about what was being done to deal with human rights violations which had been reported on by a number of reliable sources. The Special Rapporteur, for example, indicated in his report (E/CN.4/1992/S-1/9), paras. 28 and 30) that the importance of the human rights violations suffered by ethnic Serbs could not be underestimated, and referred to prosecution of an individual accused of being a "chetnic". Information on those points would be appreciated.

32. Annex II to the Special Rapporteur's report mentioned an openly Fascist militia and political party that was considered to be responsible for most of the abuses committed against Serbs. He was shocked to discover that in a day and age when human rights had been enshrined in a number of international instruments, there was a resurgence of the same mentality that had been the basis for persecution during the Nazi era. He was sure, however, that the Committee's dialogue with the Republic of Croatia would contribute to ending human rights abuses in that country.

33. Mr. MÜLLERSON thanked the Croatian delegation for the information provided in its opening statement and in writing. In civil wars pitting neighbour against neighbour, there were no innocent parties. He agreed with Mrs. Higgins that, in respect of the Covenant and other international instruments, no differentiation could be made between the aggressor and the victim of aggression. It was for that reason that the Committee was inquiring into Croatia's implementation of the Covenant.

34. Paragraph 26 of the Special Rapporteur's report referred to practices that had resulted in the flight of a large number of Serbs from Croatia to Serbia. He found it difficult to see what that meant if not a form of ethnic cleansing - perhaps less violent than in other situations, but nevertheless the same phenomenon.

35. He agreed with Mr. Herndl that clarification should be provided concerning the lists indicating the ethnic origin of citizens of Croatia. Such documents might well serve as the basis for discrimination.

36. Finally, he agreed with other members of the Committee that an explanation should be given regarding the presence and actions of Croatian forces in Bosnia and Herzegovina.

37. Mr. EL SHAFEI welcomed the delegation of a State party that had newly acceded to the Covenant and thanked it for providing as much documentation as it could. He associated himself with the hope expressed at the end of the Croatian report that the dialogue with the Committee would assist the Republic of Croatia in implementing the Covenant, even in the current difficult situation.

38. He would be interested to know the status of the Covenant and other international treaties signed by the Republic of Croatia in relation to domestic law. The adoption of the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities, referred to in section I of the report, was a welcome development. Article 3 of that Law indicated that the Republic protected the equality of national and ethnic groups and minorities. He would appreciate a listing of the groups characterized as minorities, information on their numerical strength and clarification as to whether it was the Government's intention to relocate members of such groups in specific places. The Law seemed to represent a promising effort to deal with the existence of a number of ethnic and national groups in the territory of the former Yugoslavia. Would the Croatian Government be favourable to a similar law being passed in other countries of the former Yugoslavia in relation to Croatian nationals?

39. Noting that the Government of Croatia had established a provisional court for human rights, he inquired how it functioned and what legal instruments and guarantees it applied.

40. Mr. AGUILAR URBINA endorsed Mrs. Higgins' comments about victims and aggressors. Reports from a number of reliable sources indicated that all parties to the conflict in the former Yugoslavia were violating human rights. He had been shocked to see in a recent issue of the Tribune de Genève a photograph of a Croatian soldier wearing a Nazi emblem. Such symbols constituted violations of article 20 of the Covenant, which prohibited advocacy of national, racial or religious hatred. He wondered what measures were being taken to cope with such violations.

41. The lists referred to by Mr. Herndl could constitute the prelude to ethnic cleansing, and he inquired what was being done to prevent them from being drawn up.

42. Members had been told that there were no detention camps in Croatian territory. However, the Special Rapporteur had referred to a number of places, including schools, factories and apartments, where thousands of persons were being held. It therefore appeared that there were places where people were detained under the jurisdiction of members of the Croatian army.

43. The Special Rapporteur had also referred to Serbs who were being held in a bank basement in Sarajevo with Croatian soldiers in charge.

44. According to the CSCE report and other documents before the Committee, many cases involving war crimes and ethnic cleansing had been brought before the courts and it seemed that the accused were always Serbs and never Croats.

45. Mr. WENNERGREN congratulated the Government of Croatia on having established an Office for Inter-Ethnic Relations, which he thought would be a useful instrument. He would like to know what instructions had been given to the Office and along what lines it would approach its tasks.

46. With regard to the term "ethnic cleansing", he said that according to article 2 of the Universal Declaration of Human Rights, ethnic origin should play no role at all in the enjoyment of human rights. He would welcome information on what the Office for Inter-Ethnic Relations might do to promote the eradication of ethnic criteria in the future.

47. He noted that the Minister of the Interior had been assigned the task of preventing sabotage and military action. There were certainly many weapons hidden in Croatia following the armed conflict and he would like to know whether measures had been taken to prevent them from being turned over to Bosnia and Herzegovina. He would also like to know what policies Croatia was pursuing with regard to the Croats in Bosnia and Herzegovina who were in a difficult situation and in need of assistance.

48. Mr. VUKAS (Croatia) referred, first of all, to the following statement in his Government's report: "The Croatian Government believes that this distinction between the aggressor and the victim must be a basis of any consideration of the situation in Croatia with regard to human rights." The statement did not mean that there should be a difference between individuals according to whether they came under the aggressor Government or were citizens of Croatia. What his Government had wanted to indicate was that all the violations of human rights had constituted aggression. During the war in Croatia, part of the Serbian ethnic group had joined the aggressors and committed violations. That was the reason for the sentence in question, although he now realized that it might be interpreted as being contrary to the basis for human rights protection under the Covenant.

49. The Office for Inter-Ethnic Relations set up by his Government had branches in various districts. Its primary function was to propose measures to monitor the application of laws and regulations. The branches had established a council where all representatives of different ethnic groups and minorities met to present their problems. At the same time, they received persons whose cases had not been dealt with properly by judicial and other organs in Croatia. They were very active and had to handle hundreds of cases.

50. From the point of view of international law, it was clear that the sovereign State of Bosnia and Herzegovina, recognized by the United Nations and a State Member of the Organization, had the right to individual and collective self-defence. Unfortunately, the United Nations could only try to provide humanitarian assistance. As a neighbouring State, Croatia was entitled to help its young neighbour to survive. That was the relationship between the two States, but the Government of Croatia could not be held responsible for atrocities committed in the other State.

51. With regard to the status of international treaties, in early October his Government had notified the depositaries of many international treaties of its decision to consider itself a successor State in respect of the ratification of the former Federal Republic of Yugoslavia. Concerning bilateral treaties, his Government intended to be bound by all the obligations of the former Yugoslavia if the treaties were in accordance with Croatia's interests. Under article 134 of the Constitution, international agreements concluded and ratified in accordance with the Constitution were part of Croatia's international order and prevailed over national legislation.

52. Referring to the question of ethnic groups and minorities in Croatia, he said that in addition to Croats there were Serbs, Muslims, Slovenes, Czechs, Italians, Hungarians, Jews and other groups. Anyone who wished to be considered as belonging to a minority had the right to do so and enjoyed all the rights guaranteed under the Constitution. There was no wish on the part of the Government to change anything in respect of their geographical situation.

53. The Government of Croatia had included provisions in its Constitutional Law of December 1991 with regard to minorities, but those provisions and the implementation of substantive regulations depended on the willingness of those concerned to accept them. The application of those rules, particularly those concerning the Serbian minority, depended on a decision of the present rulers of that minority in one part of Croatia to recognize that they were citizens of Croatia and that their future should be within the framework of the Croatian legal order and the international solutions found to the problems of the former Yugoslavia. In that connection, he said that Serbs living in other parts of Croatia had recently received new schools and a Serbian organization called the Serbian Community, which had been banned in the early 1950s, had been re-established to protect the national rights of Serbs in Croatia.

54. His Government used the term "ethnic" in the spirit of the provisions of article 27 of the Covenant. It was merely being realistic to acknowledge the existence of ethnic minorities in Croatia.

55. Mr. KRAPAC (Croatia) said that the Croatian system of criminal justice operated according to the well-known continental pattern whereby the police carried out inquiries and were obliged to report all cases to the Public Prosecutor's Office. Following an investigation, a charge-sheet was drawn up and the case was tried in a court, which then handed down a judgement. There were courts of first instance, courts of second instance and a Supreme Court which was the guardian of the law. At the beginning of the war against Croatia, that system had operated for several months under extremely difficult conditions and the police authorities had been the only forces able to offer resistance to the military action. As a result, certain police forces had been unable to perform their functions. The situation had then improved and, after 1 January 1992, the police had been able to perform their duties in a more normal fashion.

56. According to the Ministry of Justice, judicial statistics for the period August 1990-July 1992 showed that the number of persons reported for criminal

offences connected with the war or armed conflict in Croatia was 21,951. Those reported for a specific offence against State security included Serbs, Croats and Muslims.

57. Other criminal offences classified as crimes against humanity and international law involved 1,880 persons. They were perpetrators of war crimes against civilian populations and prisoners of war.

58. Members of the military who committed crimes were brought before military courts. In that connection, he said that the total number of such persons, who belonged to all nationalities, was 6,829.

59. With regard to the question raised concerning the word "clarified", he said that it was a police term which meant that where a perpetrator had been identified and reported to the Public Prosecutor's Office, the latter took action under the so-called principle of mandatory prosecution - a concept from German and Austrian law - and requested the opening of a judicial investigation.

60. According to the data available, there had so far been 423 court judgements, 91 per cent resulting in convictions, for criminal offences in connection with the armed conflict. Account should be taken of the fact that, while justice must be served, it must not be hasty.

61. With regard to allegations in the CSCE report concerning the destruction of over 6,000 Serbian homes in the previous 10 months, the following figures had been provided by the Croatian Ministry of the Interior: from 1 January to 31 August 1992, there had been 4,014 cases of destruction of homes in which the victims had been Serbs, 1,067 cases involving Croats and 115 cases involving members of other groups.

62. With regard to the concrete measures taken in the criminal justice system to combat advocacy of racial and religious hatred, he referred to article 39 of the Constitution and to data provided by the Ministry of the Interior to the effect that 42 crimes of incitement to national or religious intolerance or hatred under article 236 (k) of the Penal Code had been reported in the first 9 months of 1992. Of those, 40 had been "clarified".

63. Regarding Mr. El Shafei's point concerning the establishment of a court for human rights in Croatia, Croatia had a Constitutional Court, which, in addition to its competence to review the Constitution and legislation, now had the power to receive human rights complaints from individuals.

64. Mr. ŠIMAC (Croatia) said his Government fully shared the view expressed by several members that a Government must not be exonerated from responsibility for human rights violations occurring in its territory. However, a distinction should be made between the three quarters of the territory controlled by the Croatian Government, for which the Government was responsible, and the portion that was occupied by the Serbs and under the protection of UNPROFOR, where it was not possible, practically speaking, to control human rights violations. Such violations were the result of the abnormal psychological state of the inhabitants and in reaction to earlier atrocities. Without giving the impression that the Croatian Government was

attempting to justify those violations, he wished to stress the difference between them and the initial violations in Croatia, aimed not only at the State but also at Croatian citizens, mostly Croats and other non-Serbs, and in a few cases at Serbs who had refused to join the Serbian army.

65. On the subject of detention camps in Bosnia and Herzegovina, the Croatian Government could not be held responsible for violations in other independent sovereign States. He was therefore not competent to reply to the questions concerning detention camps in that country. Regarding detention camps in Croatia, none existed in the meaning he attached to that term, i.e. concentration camps similar to those that had existed during the Second World War. Due to the war, Croatia did have three prisoner-of-war camps in its territory, which were under the control of the Ministry of Defence. Rules for the treatment of the prisoners had been laid down in a decree of the President of the Republic, and the provisions of the Geneva Conventions of 1949 were applied.

66. Nevertheless, it should be mentioned that, in the framework of spontaneous self-defence actions against Serbian and Montenegrin aggression in Croatia, at a time when Croatia had been weaponless and without a military force, there had been some cases where the inhabitants of Serbian villages had been taken hostage. The members of the Serbian population in Croatia who had collaborated with the Yugoslav army were considered by the Croatians to be criminals and had been convicted by Croatian courts. He stressed that those events had occurred at a stage of the war when Croatia had been unable to defend itself with its regular forces and had been out of control of over half its territory.

67. Regarding the incidents of attacks on Serbian-owned shops reported by CSCE, he said that one such incident had been sparked off by the murder of a local policeman, ambushed by Serbian terrorists. The Croatian police had moved to arrest the culprit and restore order. That explanation was not meant to justify such behaviour, which was against the policy of the Croatian Government. Concerning reports of people losing jobs because of their ethnic origin, he said that the Croatian Government was conducting investigations into an incident in which members of the Croatian Democratic Union, the leading Croatian political party, had allegedly written threatening letters to Serbian intellectuals. The party leaders rejected those allegations as unfounded, and it did appear that they had not been proved.

68. The list of acts of violence against Serbs reflected acts by individuals and not an official policy on the part of the Croatian Government, which was that all must live together in mutual respect. There was no perfect society, and it could not be assumed that a country emerging from communist rule, having won its independence through an extremely violent armed conflict, would rapidly attain the highest degree of respect for human rights. Violations did exist in Croatia, but the Government was doing everything possible to see that the law was applied to punish those responsible.

69. Regarding the extremist right-wing party in Croatia, he noted that extremists existed in every country. At the recent elections in early August, that party had won only one third as much support as the National Front in

France; those results clearly showed its insignificance. Furthermore, that party and its military wing had been condemned by the Croatian Government, and the party leaders, three Members of Parliament, had had their immunity removed and were being investigated. The Public Prosecutor's Department had also requested the opening of an investigation into that party's activities, possibly leading to its dissolution, which had raised a good deal of controversy in Parliament.

70. Regarding the concrete measures mentioned by several members, he referred again to the country's constitutional and legal provisions. The Government was aware, however, that those provisions must be implemented, and the political campaign for the recent August elections had placed strong emphasis on respect for human rights and especially the rights of minorities, an issue of which public opinion was keenly aware. There were also the activities of the Ministry of the Interior aimed at preventing the violence, especially of an ethnic nature, that continued to occur throughout the territory. The police, for its part, was attempting to protect public and private buildings, in particular Serbian-owned homes, against possible attacks.

71. Unfortunately, the Croatian Government could do nothing about violations in the part of the territory out of its control, where, as eyewitnesses who had fled or been expelled testified, incidents of ethnic cleansing, expulsions, arbitrary arrests, executions, torture and racial and religious hatred continued to occur. He hoped the presence of UNPROFOR would help to increase respect for human rights in those areas and enable the Croatian Government to regain control of the entire territory, restore the conditions for peaceful coexistence and enable the expelled to return to their country.

72. As to how the Human Rights Committee and the international community could help the Government of Croatia ensure respect for human rights in the country, he said that his delegation's presence before the Committee was an extremely important contribution in that respect and expressed gratitude for the opportunity to explain his country's position. Human rights experts in the Committee and other United Nations human rights bodies could also be of help. Croatia hoped in May 1993 to host a CSCE seminar on human rights in Croatia and other CSCE member countries. It was also attempting to secure cooperation in that field from international bodies at the European level, such as the Council of Europe.

73. Mrs. HIGGINS thanked the Croatian delegation for its informative answers and requested a few clarifications on facts. Firstly, she asked whether the figure of 423 court judgements with 91 per cent convictions represented figures for all criminal offences or only those brought before the military tribunals, which were of the most interest to the Committee. Secondly, the Committee had been assured that the three prisoner-of-war camps in Croatia applied the provisions of the Geneva Conventions of 1949. Did that mean that the International Committee of the Red Cross had access to them and that full lists of prisoners were provided? Thirdly, she would like to know whether it was being suggested that in the area controlled by UNPROFOR, violations had been committed by all national parties or only certain ones.

74. Mr. AGUILAR URBINA associated himself with the first two clarifications requested by Mrs. Higgins.

75. Mr. MÜLLERSON noted that, in the copies of the Croatian Constitution distributed to the members, page 1, and therefore also article 1 of the Croatian Constitution which the representatives had cited, were missing. He asked whether the members could be provided with a copy of the missing material.

The meeting rose at 1 p.m.